

Melinda McKissick,
Complainant/Petitioner,
v.
Duke Energy Progress, LLC,
Defendant/Respondent.

Duke Energy Progress, LLC's
Motion to Dismiss

BACKGROUND

As described in its August 8, 2018 filing in Docket No. 2018-262-E, the Company has been in the process of deploying Advanced Metering Infrastructure (“AMI”) to its customers in South Carolina, which includes the deployment of smart meters. Customers who objected to the installation of a smart meter have been temporarily bypassed during the deployment and have

continued to be served by Automated Meter Reading (“AMR”) meters. AMR meters collect and transmit customers’ kWh usage via a low-power radio frequency signal (900 MHz radio frequency) that is read by equipment installed in the Company’s trucks as the meter readers drive by the location. As more smart meters are deployed, routes for reading AMR meters are being discontinued. For that reason, and to accommodate the limited number of customer concerns related to smart meter deployment, DEP proposed—and the Commission approved—the Meter-Related Optional Programs (“MROP”) Rider.¹ Under the MROP Rider, rather than energy usage being communicated to the Company via radio frequency, the meter is instead read manually by a meter reader physically visiting the premises. As acknowledged in the Company’s application in Docket No. 2018-262-E, there are additional costs to provide this manual service under the MROP program, including initial setup costs and ongoing costs related to reading the meter, and subscribing customers are required under the MROP Rider to pay those added costs.

On May 24, 2019, in Docket No. 2018-262-E, the Company filed a proposed revised MROP Rider to incorporate a medical opt-out provision to eligible customers and would allow for payment options for the set-up fee for those who desire such option. The Commission approved this proposal in Order No. 2019-429 issued on June 12, 2019.

ARGUMENT

DEP requests that this matter be dismissed pursuant to S.C. Code Ann. § 58-27-1990, which allows the Commission to dismiss a petition if it determines that “a hearing is not necessary

¹ See Duke Energy Progress, LLC’s Request for Approval of Revised Meter Related Optional Programs Rider MROP, Docket No. 2018-262-E (filed Aug. 8, 2018); Order No. 2018-645, Docket No. 2018-262-E (Sept. 26, 2018).

in the public interest or for the protection of substantial rights.” The Complaint in this case does not allege any violation of an applicable statute or regulation upon which relief can be granted.

S.C. Code Ann. Regs. 103-320 requires that service “be measured by meters furnished by the electrical utility unless otherwise ordered by the commission” The Company no longer supports the use of analog electromechanical meters, and all smart meters and AMR meters used by the Company are tested to confirm that they are in compliance with Federal Communications Commission (“FCC”) rules and guidelines, which set exposure limits for all types of devices that emit radio frequencies. The FCC standards for intentional and unintentional radio emissions and safety related to radio frequency exposure, Parts 1 and 2 of the FCC’s Rules and Regulations (47 C.F.R. §§ 1.1307(b), 1.1310, 2.1091, 2.1093), govern the certification and design of communicating meters and other devices such as cordless phones, remote control toys, personal computers, televisions, vacuum cleaners, among others. All meters used by the Company comply with these standards. Nevertheless, should a customer prefer to have his or her meter manually read, the customer may opt into the MROP program. Providing service under the MROP program carries added costs, including initial setup costs and ongoing costs related to reading the meter, and subscribing customers are required under the Commission-approved MROP Rider to pay those added costs.

Once DEP implements the recent modifications to the MROP Program, Ms. McKissick will be permitted to spread payment of the initial setup fee over a six-month period, or request waiver of the MROP fees entirely if she provides a notarized statement from a South Carolina-licensed physician stating that she or her husband must avoid exposure to radio frequency emissions, to the extent possible, to protect their health. Until DEP has implemented these options, Ms. McKissick’s residence will be bypassed and she will be permitted to use her existing meter.

The Company requests that this matter be dismissed because the Complaint in this case fails to allege any violation of an applicable statute or regulation.

CONCLUSION

The Complaint in this case contains no allegation that DEP violated any applicable statute or regulation, and a hearing in this case is not necessary in the public interest or for the protection of substantial rights. Therefore, this matter should be dismissed.

WHEREFORE, DEP moves the Commission to dismiss this matter with prejudice, and requests that the Commission hold the testimony deadlines for all parties and the hearing in abeyance pending resolution of this motion; and requests such other relief as the Commission deems just and proper.

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